

1 HB48
2 196524-2
3 By Representative Dismukes
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 02/14/2019

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8 SYNOPSIS: Existing law provides a list of factors for
9 a juvenile court to consider in making a
10 determination of whether to terminate parental
11 rights.

12 This bill would provide that the conviction
13 of a parent for the crime of rape in the first
14 degree or of incest is a factor for a juvenile
15 court to consider when making a determination of
16 whether to terminate parental rights for that
17 parent if that instance of rape or incest resulted
18 in the conception of the child.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To amend Section 12-15-319, Code of Alabama 1975, to
25 create Jessi's law; to provide for termination of parental
26 rights of a person who commits the crime of rape in the first

1 degree or incest if the rape or incest results in the
2 conception of the child.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited
5 as "Jessi's Law."

6 Section 2. Section 12-15-319, Code of Alabama 1975,
7 is amended to read as follows:

8 "§12-15-319.

9 "(a) If the juvenile court finds from clear and
10 convincing evidence, competent, material, and relevant in
11 nature, that the parents of a child are unable or unwilling to
12 discharge their responsibilities to and for the child, or that
13 the conduct or condition of the parents renders them unable to
14 properly care for the child and that the conduct or condition
15 is unlikely to change in the foreseeable future, it may
16 terminate the parental rights of the parents. In determining
17 whether or not the parents are unable or unwilling to
18 discharge their responsibilities to and for the child and to
19 terminate the parental rights, the juvenile court shall
20 consider the following factors including, but not limited to,
21 the following:

22 "(1) That the parents have abandoned the child,
23 provided that in these cases, proof shall not be required of
24 reasonable efforts to prevent removal or reunite the child
25 with the parents.

26 "(2) Emotional illness, mental illness, or mental
27 deficiency of the parent, or excessive use of alcohol or

1 controlled substances, of a duration or nature as to render
2 the parent unable to care for needs of the child.

3 "(3) That the parent has tortured, abused, cruelly
4 beaten, or otherwise maltreated the child, or attempted to
5 torture, abuse, cruelly beat, or otherwise maltreat the child,
6 or the child is in clear and present danger of being thus
7 tortured, abused, cruelly beaten, or otherwise maltreated as
8 evidenced by the treatment of a sibling.

9 "(4) Conviction of and imprisonment for a felony.

10 "(5) Commission by the parents of any of the
11 following:

12 "a. Murder or manslaughter of another child of that
13 parent.

14 "b. Aiding, abetting, attempting, conspiring, or
15 soliciting to commit murder or manslaughter of another child
16 of that parent.

17 "c. A felony assault or abuse which results in
18 serious bodily injury to the surviving child or another child
19 of that parent. The term serious bodily injury shall mean
20 bodily injury which involves substantial risk of death,
21 extreme physical pain, protracted and obvious disfigurement,
22 or protracted loss or impairment of the function of a bodily
23 member, organ, or mental faculty.

24 "(6) Unexplained serious physical injury to the
25 child under those circumstances as would indicate that the
26 injuries resulted from the intentional conduct or willful
27 neglect of the parent.

1 "(7) That reasonable efforts by the Department of
2 Human Resources or licensed public or private child care
3 agencies leading toward the rehabilitation of the parents have
4 failed.

5 "(8) That parental rights to a sibling of the child
6 have been involuntarily terminated.

7 "(9) Failure by the parents to provide for the
8 material needs of the child or to pay a reasonable portion of
9 support of the child, where the parent is able to do so.

10 "(10) Failure by the parents to maintain regular
11 visits with the child in accordance with a plan devised by the
12 Department of Human Resources, or any public or licensed
13 private child care agency, and agreed to by the parent.

14 "(11) Failure by the parents to maintain consistent
15 contact or communication with the child.

16 "(12) Lack of effort by the parent to adjust his or
17 her circumstances to meet the needs of the child in accordance
18 with agreements reached, including agreements reached with
19 local departments of human resources or licensed child-placing
20 agencies, in an administrative review or a judicial review.

21 "(13) A conviction for rape in the first degree
22 pursuant to Section 13A-6-61 or incest pursuant to Section
23 13A-13-3, committed by the parent if the rape or incest
24 resulted in the conception of the child.

25 "(b) A rebuttable presumption that the parents are
26 unable or unwilling to act as parents exists in any case where
27 the parents have abandoned a child and this abandonment

1 continues for a period of four months next preceding the
2 filing of the petition. Nothing in this subsection is intended
3 to prevent the filing of a petition in an abandonment case
4 prior to the end of the four-month period."

5 Section 3. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.

8 Section 4. THIS SECTION WAS AMENDED BY ACT 2018-494
9 IN THE 2018 REGULAR SESSION, EFFECTIVE JANUARY 1, 2020. THIS
10 IS NOT IN THE CURRENT CODE SUPPLEMENT.

11 (a) In order to obtain the redemption of land from
12 tax sales where the same has been heretofore or hereafter sold
13 to the state, the party desiring to make such redemption shall
14 apply therefor as hereinafter provided and shall deposit with
15 the judge of probate of the county in which the land is
16 situated the amount of money for which the lands were sold,
17 with interest thereon at the rate of eight percent, together
18 with the amount of all taxes found to be due on such land
19 since the date of sale, as provided herein, with interest at
20 the rate of eight percent and all costs and fees due to
21 officers.

22 (b) Upon application to the probate judge to redeem
23 land where the same has been sold to the state for taxes,
24 which application shall be made on blank forms to be furnished
25 by the Land Commissioner, the probate judge shall submit such
26 application to the tax assessor of the county in which the
27 land sought to be redeemed is located, and the assessor shall

1 without delay enter on such application an assessment value
2 for each of the years for which taxes are due, subsequent to
3 the year for which such land was sold to the state for taxes,
4 and such assessment value shall be such percentage as
5 established by law of the fair and reasonable market value of
6 such lands as of October 1 of the year or years subsequent to
7 the year for which the land was sold for taxes.

8 (c) Any party having a right to redeem the property,
9 his or her agents, or attorney, shall have the right to file a
10 written protest with the board of equalization, objecting to
11 the valuation of the land as placed on the property by the tax
12 assessor, setting forth his or her ground of objection to the
13 assessed value of the property as fixed by the tax assessor,
14 and the board of equalization shall, thereafter, fix a day for
15 hearing the protest by giving to the tax assessor and party
16 desiring to redeem, his or her agents, or attorney, at least
17 10 days' written notice of the day and place of hearing the
18 petition, and upon the hearing of the cause, the board of
19 equalization shall have the right to review the assessed value
20 of the property as fixed by the tax assessor and shall fix and
21 determine the assessed value for each of the years subsequent
22 to the year for which such land was sold to the state for
23 taxes, and the board of equalization shall certify to the
24 probate judge the assessed value of the land so fixed.

25 (d) The redemptioner shall deposit with the probate
26 judge the amount of money for which lands were sold for taxes,
27 plus the amount due for subsequent years based on the

1 assessment value as required to be fixed herein, and interest
2 costs, and fees as provided in this section.

3 (e) If any balance remains due to the state upon any
4 lien arising by reason of any installment redemption the
5 payment of which is secured under the provisions of Section
6 40-10-141, the redemptioner shall also deposit with the
7 probate judge the amount of the balance due upon such lien,
8 with interest to the date of redemption.

9 (f) If the lands sought to be redeemed, or any
10 portion thereof, are situated in any municipality, the
11 redemptioner shall also deposit with the probate judge the
12 amount of any unpaid taxes assessed against the same by such
13 municipality, and an amount equal to any municipal taxes
14 thereon which, subsequent to the tax sale, were not assessed
15 by reason of the fact that such land had been purchased by the
16 State of Alabama, plus interest which would have accrued upon
17 such municipal taxes from the time the same would have
18 otherwise become delinquent, which amounts, with interest,
19 shall be treated and distributed in the same manner as taxes
20 and interest thereon.